

DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

(4) Defendant TYRONE BARROW IS EMPLOYED BY THE A.D.O.C. as a Classification Specialist, and is assigned to the EASTERLING CORRECTIONAL FACILITY.

EXHIBIT'S

EXHIBIT 1 - AFFIDAVIT OF JAMES ADAMS

EXHIBIT 2 - ELMORE COUNTY TRANSCRIPT

EXHIBIT 3 - ALABAMA DEPARTMENT CORR. PROGRESS REVIEW FORM

EXHIBIT 4 - LETTER FROM THE CLERK OF VOLUSIA COUNTY, FLORIDA

PLAINTIFF RESPONSE

...The Plaintiff state that the Defendants in this case has violated the plaintiffs Constitutional Rights by placing false information of a false charge in Plaintiffs prison file, the Defendants did this knowingly and with malice and is not immune from suit under the ELEVENTH AMENDMENT.....

ARGUMENT

The plaintiff avers that he does not have a liberty interest in WORK RELEASE, but does have Classification dicisions based on factual information and not on false information.
See MONROE V. THIGPEN 932 f. 2d 1437 (11th Cir. 1991)

.....In the case at bar the Plaintiff avers that Defendant Classification Specialist TYRONE BARROW, did in fact knowingly and maliciously place the charge of ESCAPE on the Plaintiff's; ALABAMA DEPARTMENT OF CORRECTIONS PROGRESS REVIEW FORM. Classification Coordinator LATRICE GREEN and Asst. Warden CARTER DAVENPORT agreed with the false charge and actions of defendant Barrow.

continued.....

The Plaintiff states that at the time of the plaintiff Annual Progress Review, Plaintiff met the criteria for Community Custody for placement in the A.D.O.C. work release program, However, due to defendant Barrow placing an Escape charge on plaintiff's progress review form, the plaintiff became ineligible for the A.D.O.C. work release program.

.....The A.D.O.C. criteria for Work Release Placement states: "Inmates convicted of the following crimes, past or present, will never be eligible for Community Consideration:

H. Inmates convicted of a violent crime on escape, S.I.R., P.D.L., or work release;

J. (ESCAPE) or attempted escape with serious injury past or present:

The Plaintiff states that the ALABAMA DEPARTMENT OF CORRECTIONS CLASSIFICATION system contains no inherent Constitutional invalidity, but becomes Constitutionally offensive only if the regulation is administered maliciously or in bad faith. See HENDKING V. SMITH 781 F. 2d 850, 852 11th CIR. 1986 Also see FRANCIS v. FOX 838 F. 2d 1147, 1149-50 11th CIR. 1988

The Plaintiff states that it was the act's of the defendants that caused the plaintiff to become ineligible for placement in the A.D.O.C. Work Release Program.

The Plaintiff avers that on or about Feb.,2004 to Jan. 20, 2005 he was incarcerated at a A.D.O.C. Work Release at Bullock Community Work Release, and on Jan. 20, 2005 he was Removed from this Work Release---

--- "Due to a detainer in Elmore County, Ala. and transferred to a Medium Prison, Easterling Correctional Facility.

It was at Easterling that the defendants in this case treated the plaintiff arbitrarily and capriciously and knowingly and maliciously placed a false charge of escape on his A.D.O.C. Progress Review Form that would prevent him from returning back to the Work Release Program.

.....It is clear that the Plaintiff has stated a cause of action under §1983 for violation of Due Process of the Fourteenth Amendment...See *Monroe v. Thigpen*, 932 F.2d 1437 (11th Cir. 1991)

The Eleventh Circuit has held that prison officials have wide-ranging deference in the adoption and Execution of policies and practices that in their judgment are needed to preserve internal order and discipline, and to maintain institutional security...See *Wilson*, 163 F.3d at 1295 *Bell v. Wolfish* 441 U.S. 520,547,99 S.Ct.,1861,1878 (1979).

However, Our U.S. Supreme Court and the Ala. Supreme Court has stated in *McCammon v. Youngblood* 2002 Ala. Civ. App. lexis that a state agent shall not be immune from Civil liability in his or her personal capacity when:

(1) When the Constitution or laws of the UNITED STATES, or the Constitution of this State, or laws, Rules or Regulations of this State enactd or promulgated for the purpose of regulating the activities of a governmental agency require otherwise or;

(2) When the State agent acts willfully, maliciously, fraudulently in bad faith, beyond his or her Authority or under a mistaken interpretation of the law....

"It is clear that the Defendant willfully and maliciously acted in bad faith, and beyond State Law and the Rules and Regulations of the A.D.O.C. when they entered a false Charge on the plaintiff's Progress Review form."

..."Defendant Burrow, did place this False Information in the Plaintiff's File....."

Defendant's Green and Davenport approved such action of Barrow.."

.....It is Clear that the Plaintiff has met by proof that the defendants, Public Official's actions Violated clearly Established Law in the A.D.O.C. Rule and Regulations and Procedure and is not entitled to qualified immunity.....See Rich v. Dollar 841 F. 2d 1558-64 (11th Cir. 1988.)

CONCLUSION

There is a genuine issue of material fact, and the plaintiff is Entitled to Relief sought, by Ordering the A.D.O.C. to expunge the "FALSE INFORMATION" from his prison file, be placed back in the A.D.O.C. Work Release Program and \$50,000 against each defendant, and any other relief that this Court deem just and fair....

RESPECTFULLY SUBMITTED:

James Adams

James Adams #108239
1401 Hyw. 20 West
DECATUR, ALABAMA 35601

CERTIFICATE OF SERVICE

I hereby certify that I have, this 29 day of Dec. 2006. served a copy of the foregoing upon the defendants by placing same in the U.S. Mail, postage pre-paid and properly addressed as follows:

Address of Counsel

Hon. Troy King
Office of the Attorney General
11 South Union Street
MONTGOMERY, ALABAMA
36130

Respectfully Submitted,

JAMES ADAMS
JAMES ADAMS # 108239

IN THE CIRCUIT COURT OF MORGAN
COUNTY, ALABAMA

JAMES ADAMS #108239
Plaintiff,

V.

Assistant Warden Carter
Davenport, ET,AL...
Defendants

CIVIL ACTION:
#06-988-ID-DRB

RECEIVED

2007 JAN -5 A 9:34

LECCA P. HACKETT, CLERK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

AFFIDAVIT

Before me, the undersigned authority, a Notary Public In and for said County and State of Alabama at large personally appeared JAMES ADAMS #108239, who being known to me and deing by me first duly sworn, deposes and says under oath as follows:

My name is JAMES ADAMS # 108239, and I am a Alabama inmate incarcerated now at DECATUR COMMUNITY WORK CENTER in Decatur, Alabama, 1401 Hyw. 20 West 35601 and I am over the age of twenty-one (21) years of age.

.....On or about Feb. 2004 the Plaintiff was incarcerated at BULLOCK Community Work Release, and on Jan. 20, 2005 the plaintiff was removed from this work release due to a Detainer Warrant being issued out of Elmore County Ala. for the crime of Second Degree Poss. of a forged Instrument, and was transferred to Easterling Corr. Facility at 200 Wallace Dr. Clio, Ala, 36017.

On 4-28-2005, the Plaintiff entered a plea of guilty to the charge that was pending in Elmore County, Ala. and was sentenced by a Circuit Judge in Elmore County to 10years and said sentence was suspended and placed on probation, but the probation would start after the Defendant is to serve 24months in the A.D.O.C. and that defendant was granted the right to have Work Release. See EXHIBIT 1.

.....On 2-23-06 the Plaintiff received his Annual Review at EASTERLING CORR. FACILITY, Classification Specialist TYRONE BARROW, Classification Coordinator LATRICE GREEN and Ass. Warden CARTER DAVENPORT and the Plaintiff was present.

It was during this review that Classification spec. TYRONE BARROW refused to put the plaintiff back in for work release or community custody, citing: An Escape in VOLUSIA COUNTY, FLORIDA tha never happend, that he placed and wrote on the plaintiff's Annual Review that was approved by Classification Coordinator LATRICE GREEN and Ass. Warden CARTER DAVENPORT See Exhibit 2

The Plaintiff states that he never was charged for the crime of ESCAPE in VOLUSIA County, FLORIDA as a matter of fact the clerk of the SEVENTH JUDICIAL CIRCUIT of VOLUSIA County, FLORIDA sent a letter stating that no misdemeanor or felonys for the yearss of 1982 to disclose no case against the plaintiff. See EXHIBIT 3.

The Plaintiff states that MR. BARROW did place this ESCAPE on my progress review form knowing that this was false and GREEN and GREEN and DAVENPORT who was at this review approved such false information knowing that the ESCAPE was false information and based on their acts, the Plaintiff has false information in his record and based on that false information the plaintiff is not being able to participate in the A.D.O.C. work release.

JAMES ADAMS #108239

JAMES ADAMS

SWORN TO AND SUBSCRIBED TO BEFORE ME THIS THE 29 DAY OF
2006. December

MY COMMISSION EXPIRES:

~~My Commission Expires 12/22/2008~~


NOTARY PUBLIC

ALABAMA JUDICIAL DATA CENTER
ELMORE COUNTY
TRANSCRIPT OF RECORD
CONVICTION REPORT

CC 2005 000093.00 01
SIBLEY G. REYNOLDS

Exhibit 102

CIRCUIT COURT OF ELMORE COUNTY

COURT ORI: 029015 J

STATE OF ALABAMA VS.
ADAMS JAMES
AIS# 108239B
EASTERLING CORRECTIONAL
CLIO AL 36017

ALIAS:
ALIAS:

DC NO: GJ 2003 000500.00
G J: 245
SSN: 424780223
SID: 000000000
AIS: 108239B

DOB: 09/10/1956 SEX: M HT: 5 08 WT: 160 HAIR: BLK EYE: BRO
RACE: () W (X) B () O COMPLEXION: AGE: FEATURES:

DATE OFFENSE: 00/00/0000 ARREST DATE: 00/00/0000 ARREST ORI: 0290100

CHARGES @ CONV	CITES	CT CL COURT ACTION	CA DATE
POSS FORGED INSTR	13A-009-006	01 C GUILTY PLEA	04/28/2005
		00	00/00/0000
		00	00/00/0000

JUDGE: SIBLEY G. REYNOLDS

PROSECUTOR: PARTRIDGE SAMUEL SCOTT

PROBATION APPLIED	GRANTED	DATE	REARRESTED DATE	REVOKED	DATE
(X)Y()N	()Y()N	04282005	()Y()N	()Y()N	

15-18-8, CODE OF ALA 1975	IMPOSED	SUSPENDED	TOTAL	JAIL CREDIT
(X)Y()N CONFINEMENT:	00 24 000	08 00 000	08 24 000	00 00 000
PROBATION :	00 24 000		00 24 000	

DATE SENTENCED: 04/28/2005 SENTENCE BEGINS: 04/28/2005

PROVISIONS	COSTS/RESTITUTION	DUE	ORDERED
PENITENTIARY	RESTITUTION	\$525.00	\$525.00
CONCURR SENT	ATTORNEY FEE	\$750.00	\$750.00
SPLIT SENTENC	CRIME VICTIMS	\$100.00	\$100.00
DOC/SAPP PGM	COST	\$247.00	\$247.00
	FINE	\$0.00	\$0.00
	MUNICIPAL FEES	\$0.00	\$0.00
	DRUG FEES	\$0.00	\$0.00
	ADDTL DEFENDANT	\$0.00	\$0.00
	DA FEES	\$0.00	\$0.00
	COLLECTION ACCT	\$0.00	\$0.00
	JAIL FEES	\$0.00	\$0.00
	TOTAL	\$1622.00	\$1622.00

APPEAL DATE	SUSPENDED	AFFIRMED	REARREST
()Y()N	()Y()N	()Y()N	()Y()N

REMARKS:

THIS IS TO CERTIFY THAT THE
ABOVE INFORMATION WAS EXTRACTED
FROM OFFICIAL COURT RECORDS
AND IS TRUE AND CORRECT.

SPLIT SENTENCE-SENTENCED TO SERVE 10 YRS DOC. SENTENCE IS SUSPENDED
AND DEFT PLACED ON PROBATION. HOWEVER, AS A FIRST CONDITION OF PROB.
DEFT IS TO SERVE 24 MONTHS IN DOC. TO ATTEND SFP WHILE INCARCERATED.
TIME TO RUN CC WITH TIME SERVING ON MONTGOMERY COUNTY CASE.

LARRY DOZIER

04/29/2005

OPERATOR: SUS
PREPARED: 04/29/2005

Exhibit J

DATE	JUDGE'S INITIALS	ACTIONS, JUDGMENTS, CASE NOTES
		<p align="center">Sentence Suspended</p> <p>The defendant's sentence is suspended, and the defendant is placed on</p> <p><input type="checkbox"/> court supervised probation for a period of _____;</p> <p><input type="checkbox"/> unsupervised probation for a period of _____;</p> <p><input type="checkbox"/> supervised probation for a period of _____;</p>
4-28-05	EW	<p align="center">Split Sentence</p> <p>The defendant's sentence is suspended, and the defendant is placed on supervised probation for a period of <u>24 months</u>, however, as a first condition of probation the defendant shall serve <input type="checkbox"/> a period of <u>24 months</u> in the custody of the Commissioner of the Department of Corrections; <input type="checkbox"/> a period of _____ in the custody of the Sheriff of _____ County, Alabama; <input type="checkbox"/> a period of _____ in the custody of the Warden of the City of _____, Alabama, Jail. At the end of the defendant's incarceration, he/she shall be transported back to this Court for the imposition of further terms and conditions of probation.</p> <p><u>EW Court grants defendant right to have work release EW</u></p> <p>Before being delivered into the custody of the Commissioner of the Department of Corrections the defendant shall be transported to the Substance Abuse Unit at Bryce State Hospital for treatment. When the defendant has received the maximum benefit of his treatment, he/she shall be delivered into the custody of the Commissioner of the Department of Corrections to serve the period of his/her incarceration.</p>
		<p align="center">Split Sentence -- Boot Camp</p> <p>The defendant's sentence is suspended, and he is placed on supervised probation for a period of _____; however, as the first condition of his probation, the defendant shall serve up to 180 days in the custody of the Commissioner of the Department of Corrections and he shall successfully complete the Disciplinary, Rehabilitation Program. If the defendant successfully completes the program, he shall be returned to this Court for the imposition of further terms and conditions of probation. If the defendant does not successfully complete the program, he shall remain in the custody of the Commissioner of the Department of Corrections for a period of _____.</p>
		<p align="center">Split Sentence -- Substance Abuse Treatment Only</p> <p>The defendant's sentence is suspended, and the defendant is placed on supervised probation for a period of _____. As a first condition of the probation the defendant shall be transferred to the Substance Abuse Unit at Bryce Hospital for treatment. When the defendant has received the maximum benefit of his/her treatment, the defendant shall be returned to this Court for the imposition of further terms and conditions of probation.</p>
		<p align="center">Reverse Split Sentence</p> <p>The defendant's sentence is suspended, and the defendant is placed on supervised probation for a period of _____; however, as a first condition of probation the defendant shall serve <input type="checkbox"/> a period of _____ in the custody of the Commissioner of the Department of Corrections; <input type="checkbox"/> a period of _____ in the custody of the Sheriff of _____ County, Alabama; <input type="checkbox"/> a period of _____ in the custody of the Warden of the City of _____, Alabama, Jail. The period of the defendant's incarceration is postponed for a period of _____ months/years. On _____ (date) the defendant shall appear before this Court and show cause, if any he/she has, why the period of incarceration should be postponed indefinitely.</p>

Exhibit # 2

ALABAMA DEPARTMENT OF CORRECTIONS - PROGRESS REVIEW FORM - FEBRUARY 23, 2006
(COU122)

ALS #: 001082398 SSN: 424-78-0223 RACE/SEX: B/M DATE OF BIRTH: 09/10/1956
 NAME: ADAMS, JAMES CUSTODY: MED5 SECURITY LEVEL: 4
 INST: EASTERLING CORRECTIONAL CENT TIME SRVD: 02Y08M14 LAST DISC: 07/22/2004
 CRIME: CRM POSS FORGED INSTR II MEN REL DT: 06/10/2008 ACTIVE DET: 0

DISC: VIOLATION OF INSTIT. RULES OR PRL CONS: 00/00/0000 EDUCAT LEV: 11

WL/PGM: Inst. Assign PRIM OCCUP: LABORER - RANCH, FARM HAND - LRECOMMENDED INSTITUTION: Station for Family Ties RECOMMENDED CUSTODY: MEDIUMJUSTIFICATION: ANNUAL REVIEW: Repeat, multi-state offender serving a 5 year term for CPFI II x 2, TOPI, TOP II (subj. stole and cashed victims checks) & CPFI II (source doc. req.most recently on 02/16/06). No sex convictions noted. Extensive criminal record to include1973/GL, 1976/A&B on Officer (Disp. Unknown), 1977/Burglary & GL x 2, 1978/UnarmedRobbery (FL), 06/26/1982/Escapes (FL-final disp. req. most recently on 01/24/06),1990/Cocaine Poss (Atlanta), 1991/Dist. Cocaine, Robbery (Gun)-Atlanta PD-final disp. req.most recently on 01/24/06. Substance Abuser w/01/04 8-Week Sap completion @ Elmore, hasAA/NA attendance. Recommend no changes in custody due to lack of source documentation,overall criminal record & nature of subj. crimes. Recommend a lateral to Station for Family Ties.I CERTIFY ENEMY LIST WAS REVIEWED AND UPDATED: NKE, CDETS(OK) 2-23-06 APP. S/L: 23 FEB 06CLASSIFICATION, SPECIALIST DATE 2-23-06WARDEN OR DESIGNEE DATE 2-23-06

PSYCHOLOGIST/PSYCHOLOGIST'S ASSOC. DATE

CLASSIFICATION COORDINATOR DATE

CENTRAL REVIEW BOARD ACTION

APPROVED

DENIED; DIVERTED TO: Lateral Move.REASONS: Edman 3/1/06

CRB MEMBER

DATE

APPROVED

DENIED; DIVERTED TO: _____

REASONS: _____

CRB MEMBER

DATE

APPROVED

DENIED; DIVERTED TO: _____

REASONS: _____

CRB MEMBER

DATE

FINAL DECISION: INST StationCUSTODY MedDATE 3/1/06

DATE INMATE INFORMED: _____

INMATE'S SIGNATURE: X-50108239LAST ACTION: 2/05 PRREL Church of ChristDNA 2/7/06SKILLS: holy workerPsychmeds: NODiabetic: NO

DIANE M. MATOUSEK
CLERK OF THE CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT - VOLUSIA COUNTY, FLORIDA

RECEIVED - #2

Exhibit
#4

PLEASE REPLY TO:
Felony Division
P.O. Box 6043
DeLand, FL 32721-6043

May 26, 2006

JUN 07 2006

RE: Record Search

Name: James Adams
D.O.B.: 09/10/56

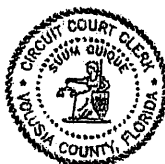
To Whom It May Concern:

Please be advised that a search of the misdemeanor and felony records of Volusia County, Florida, for the years of 1982 to 1982, discloses no cases against the above mentioned individual.

If our office can be of any further assistance, please do not hesitate to contact us at the above address.

Sincerely,

DIANE M. MATOUSEK
Clerk of the Circuit Court



By: *Teresa R. Daugherty*
Teresa R. Daugherty
Deputy Clerk

C: General Correspondence
CL-0579-0503